

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**
Richmond Division

ePLUS INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:09CV620 (REP)
)	
LAWSON SOFTWARE, INC.,)	
)	
)	
Defendant.)	

**LAWSON SOFTWARE, INC.’S RESPONSE TO EPLUS INC.’S
MOTION FOR EXPEDITED BRIEFING ON ITS MOTION TO STRIKE
PORTIONS OF LAWSON’S EXPERT REPORT**

In response to the motion by Plaintiff ePlus, Inc. (“ePlus”) for expedited briefing on ePlus’s Motion to strike portions of the report of Lawson’s expert, Benjamin F. Goldberg (“ePlus’s Motion to Expedite”), Defendant Lawson Software, Inc. (“Lawson”), respectfully requests one more day to file its opposition brief (from February 14 to February 15) and requests that the date for ePlus’s reply brief remain on February 17. In addition, Lawson has advised ePlus that it anticipates filing motions relating to the opinions offered by ePlus’s experts Alfred C. Weaver and Patrick Niemeyer after those expert are deposed later this week and requests that the Court order a similar expedited briefing schedule on those motions. Specifically, Lawson proposes that the Court order that any motions relating to Mr. Niemeyer and Dr. Weaver be filed on Wednesday, February 15, that ePlus file its opposition to such motions on Wednesday, February 22 and that Lawson file its reply briefs on Friday, February 24. A proposed Order incorporating Lawson’s proposed schedule is attached hereto.

ARGUMENT

While styled a motion to expedite briefing, ePlus's Motion to Expedite is more accurately a motion to cut Lawson's briefing schedule but not ePlus's. Under ePlus's proposed briefing schedule, the time for Lawson to prepare and file its opposition brief is significantly shortened (from 11 days to 6), while the time for ePlus to file its reply brief (3 days) is unchanged from the regular schedule provided by Local Rule 7. The burden of an expedited schedule for such a motion should not be put exclusively on the non-moving party. Lawson's proposed schedule provides one more day to prepare and file its opposition and reduces ePlus's reply time by one day. Thus, while Lawson accepts the shortening of its response time, we respectfully submit that Lawson's proposed schedule distributes that burden. Moreover, the schedule for ePlus's Motion to Strike overlaps with Lawson's previously scheduled depositions, on February 8 and 9, of ePlus's liability experts, Mr. Niemeyer and Dr. Weaver.¹ Lawson's lead counsel will not be in a position to devote attention to the response to ePlus's Motion to Strike until those depositions are concluded, and respectfully requests the additional day to prepare its response.

Based on their expert reports, Lawson advised ePlus in a meet and confer on February 6 that it anticipates filing Motions to exclude some or all of the opinions of Mr. Niemeyer and Dr. Weaver. Lawson respectfully requests that the Court enter an expedited briefing schedule for those motions under similar time frames to the schedule Lawson proposed here for the ePlus Motion to strike Dr. Goldberg's report. Specifically, Lawson proposes that the Court Order that Lawson file any Motions relating to Mr. Niemeyer and Dr. Weaver by Wednesday, February 15,

¹ Lawson could not take these depositions any earlier because Mr. Niemeyer was only made available for deposition on February 7-9, and Dr. Weaver was only made available for deposition on February 8 and 9.

that ePlus respond to any such motions by Wednesday, February 22 and that Lawson file its reply on such motions by Friday, February 24.

A proposed Order incorporating Lawson's proposed schedule is attached.

LAWSON SOFTWARE, INC.

By: /s/
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CERTIFICATE OF SERVICE

I certify that on this 7th day of February, 2012, a true copy of the foregoing will be filed electronically with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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